

DOWD, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Andre Martin,)	
)	CASE NO. 1:08 CV 2743
Petitioner,)	(Criminal Case No. 1:06 CR 271)
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
United States of America,)	
)	
Respondent.)	
)	

In the defendant's civil case brought pursuant to 28 U.S.C. § 2255, now docketed under the defendant's previous criminal case number 1:06 CR 271, the defendant filed on May 14, 2012 a *pro se* motion entitled "Amended Motion for Relief from 7/21/2009 Order and Judgment (Dos. 3 and 4), pursuant to Rule 60(b)(3) of the Federal Rules of Criminal Procedure ... Alleging Fraud upon the Court."

On an earlier date, the defendant-petitioner, Andre Martin, filed a *pro se* "Rule 60(b)(3) Motion Alleging Fraud upon the Court" in the criminal case. The Court denied that motion by an order which is attached hereto as Appendix I. ECF 110.

It is the Court's understanding that the defendant-petitioner's latest motion relates to a previous order of this Court filed in July of 2009 dismissing Andre Martin's Section 2255 action.

Once again Andre Martin takes the position that his arrest and conviction for possession of cocaine base with intent to distribute and the additional charge of being a felon in possession of a firearm should be set aside because the government agent involved in his arrest was

(1:08 CV 2743 and
Criminal Case No. 1:06 CR 271)

subsequently found to have been in violation of law in other proceedings. Specifically, the government investigating officer whose investigation resulted in the defendant's convictions was DEA Agent Lee Lucas.

In his previous memorandum and judgment entry in the Section 2255 case, the Court published a memorandum opinion denying the defendant relief in a 16-page memorandum opinion which is attached hereto as Appendix II.

In further reviewing the claims advanced by Andre Martin, the Court has examined the transcript of the motion to suppress, a copy of which is attached hereto as Appendix III. The Court has also reviewed the 27-page transcript of the taking of the defendant's guilty plea, attached hereto as Appendix IV. The Court has also reviewed a copy of the sentencing hearing of the defendant which was conducted on May 4, 2007. The 45-page transcript of the sentencing hearing is attached hereto as Appendix V.

A review of appendices III, IV and V reveals that at no time did the defendant Andre Martin contend that DEA Agent Lee Lucas had in any way engaged in misconduct with respect to his arrest and the subsequent search pursuant to a search warrant of a residence over which the defendant had control and which resulted in the seizure of a handgun and Martin's assertion that drugs over which he had control at the residence had been stolen.

The fact that DEA Agent Lee Lucas eventually became the subject of criminal investigations is absolutely in no way relevant to the denial of Martin's motion to suppress, nor was it in any way instrumental in the defendant's guilty plea and subsequent sentencing.

The defendant's motion for relief is denied in its entirety.

(1:08 CV 2743 and
Criminal Case No. 1:06 CR 271)

The clerk is directed to mail a copy of this order with the appendices to the defendant at
the following address:

Mr. Andre Martin
Reg. No. 30684-160
2680 Highway 301 South
F.C.I. Jesup
Jesup, GA 31599

IT IS SO ORDERED.

June 14, 2012
Date

/s/ David D. Dowd, Jr.
David D. Dowd, Jr.
U.S. District Judge